

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7069

Respondent: Ron Hedlund

Complaints Receipt Date: May 16, 2016

Response Dates: July 8, 2016; July 26, 2016

EPS Rating:

Alleged Statutory/
Regulatory Violations:

52 U.S.C. § 30120(a)(3);
11 C.F.R. §§ 110.11(a)(2), (b)(3);

The Complaint alleges that Hedlund sent out a mass mailing—a two-page letter mailed to 1,500 people—that lacked an appropriate disclaimer.¹ The letter, which discusses the record of Tom Garrett, a candidate for Congress, includes Hedlund’s home address, bears the phrase “From the Desk of Ron Hedlund,” and contains a disclaimer box at the bottom of both pages that states “Authorized by Ron Hedlund,” but does not contain “paid for by” disclaimer language and does not state that the letter was not authorized by any candidate or candidate’s committee. Hedlund responds that he was not aware that specific disclaimer language was required, all required information was in the letter, and he used a disclaimer form commonly used in Virginia as a guide. Hedlund acknowledges that the letter did not use the specific disclaimer form as required by FEC regulations, and he intended the letter to sway votes away from Garrett.² He also states that the total cost to create and mail the letter was \$900.

¹ The Complaint attached a copy of the letter. Garrett won the Republican primary and the general election in 2016, and he currently represents Virginia’s Fifth Congressional District.

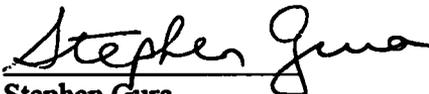
² See Response at 1 (“Apparently my letter did little to sway the voters as my favored candidate lost to [Garrett]”). Whenever any person makes a disbursement for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, through a mailing or general public political advertising, the Act and Commission regulations require that the communication shall clearly state the name and street address of the person who paid for communication, and, if the communication is not authorized by a candidate or candidate’s committee, shall state that it is not authorized as such. 52 U.S.C. § 30120(a)(3). See also 11 C.F.R. §§ 110.11(a)(2), (b)(3). Both the Complainant and Respondent agree that a disclaimer was required on the mailer at issue.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the fact that it is unlikely the general public would have been misled as to who was responsible for the letter, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to the respondent and send the appropriate letters.³

Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel

Date: 7.7.17

BY: 
Stephen Gura
Deputy Associate General Counsel

³ Hedlund admits that the letter cost more than \$250, he sent more than 500 substantially similar copies of the letter, and he intended the letter to sway voters away from Garrett, activity which could raise the issue of reporting independent expenditures. See 52 U.S.C. §§ 30101(17), 30104(c); See also 11 C.F.R. §§ 100.16(a), 104.4(e)(3), 105.4, 109.10(b). However, given that the letter cost only \$900, and the reporting issue implicates express advocacy considerations that neither party addresses, we do not make any recommendation regarding independent expenditures here.

